

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

**BISHOP OF CHARLESTON, a  
Corporation Sole, d/b/a The Roman  
Catholic Diocese of Charleston, and  
SOUTH CAROLINA INDEPENDENT  
COLLEGES AND UNIVERSITIES, INC.,**

*Plaintiffs,*

**v.**

**MARCIA ADAMS, in her official capacity  
as the Executive Director of the South  
Carolina Department of Administration;  
BRIAN GAINES, in his official capacity as  
budget director for the South Carolina  
Department of Administration; and  
HENRY McMASTER, in his official  
capacity as Governor of the State of South  
Carolina,**

*Defendants,*

**and**

**THE STATE OF SOUTH CAROLINA,**

*Intervenor-Defendant.*

**Case No. 2:21-cv-1093-BHH**

**MOTION, FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF  
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT, OF AMERICANS UNITED  
FOR SEPARATION OF CHURCH AND STATE, GLOBAL JUSTICE INSTITUTE, AND  
NATIONAL COUNCIL OF JEWISH WOMEN**

Americans United for Separation of Church and State, Global Justice Institute, and National Council of Jewish Women respectfully request leave to file the attached *amicus curiae* brief in opposition to Plaintiffs' motion for summary judgment and in support of Defendants' motions for summary judgment. Plaintiffs and Intervenor-Defendant State of South Carolina consent to this motion. Defendant McMaster opposes this motion. Defendants Adams and Gaines did not respond to *amici's* requests to provide their positions on the motion.

As one court in this District put it, *amicus* briefs “benefit[] the court by assisting the court in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *S.C. Elec. & Gas Co. v. Whitfield*, No. 3:18-cv-01795-JMC, 2018 WL 3470660, at \*4 n.11 (D.S.C. July 18, 2018) (citing *Alexander v. Hall*, 64 F.R.D. 152, 155 (D.S.C. 1974)).

Indeed, this Court has acknowledged that “amici often make useful contributions to litigation” and has invited the participation of interested parties as *amici*, including in this case. See Dkt. No. 60, at 9 (quoting *Stuart v. Huff*, 706 F.3d 345, 355 (4th Cir. 2013)); see also *Harmony West Ashley, LLC v. City of Charleston*, No. 2:19-cv-2579, 2021 WL 805535, at \*5 (D.S.C. Mar. 3, 2021); *Peter B. v. Sanford*, No. 6:10-767-JMC-BHH, 2010 WL 5912259, at \*1 (D.S.C. Nov. 24, 2010). Other courts in this District have likewise permitted the participation of parties as *amici curiae* in litigation. See, e.g., *Thomas v. Andino*, \_\_F. Supp. 3d\_\_, No. 3:20-cv-01552-JMC, 2020 WL 2617329, at \*9, 11–12 (D.S.C. May 25, 2020); *al-Marri ex rel. Berman v. Wright*, 443 F. Supp. 2d 774, 780–81 (D.S.C. 2006); *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 890 F. Supp. 470, 474–75 (D.S.C. 1995).

*Amici* are religious and civil-rights organizations that share a commitment to preserving the constitutional principles of religious freedom and the separation of religion and government. Their attorneys have extensive expertise in church-state and religious-freedom law.

Relying on that expertise, the tendered *amicus* brief is devoted to addressing Plaintiffs’ contention that South Carolina’s no-aid provision was motivated by anti-Catholic animus. In particular, the brief explains that the national history surrounding states’ adoption of no-aid clauses shows that states had legitimate, secular reasons for adopting such provisions—motivations dating

back to the founders of the nation—and that such no-aid clauses were not motivated by religious animus. The brief further explains that South Carolina’s 1895 no-aid clause likewise was not motivated by anti-Catholic animus. And even if that clause had been motivated by any such animus, any taint was removed by the substantial revisions to the clause in 1972—revisions that benefitted religious education.

For the foregoing reasons, *amici* respectfully request that the Court grant this motion to file the attached *amicus* brief.

Respectfully submitted this 6th day of October, 2021.

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\* Motions for admission *pro hac vice* to follow.